

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____/

Misc. Petition No. _____/

Contempt Petition No. 16/63 in O.A. 175/01

Review Application No. _____/


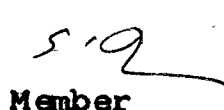

Applicant (s) Babul Ch. Deka & ors.

- Vs. -

Respondent (s) K.M. Bonzarbarnah (u.o. 1)

Advocate for the applicant (s) S. Sarma, Miss U. Das.

Advocate for the respondent (s) Case.

Notes of the Registry	Date	Order of the Tribunal
<p>This Misc petition has been filed by the counsel for the applicants praying for writ and deliberate violation of the order dated 30.9.02 passed by this Honble Tribunal in O.A. 175/01</p>	<p>8.4.03</p>	<p>Issue notice to show cause as to why a contempt proceeding shall not be initiated against the alleged contemner. Returnable by four weeks.</p> <p>List on 8.5.03 for reply and further order.</p> <p> Vice-Chairman</p>
<p>laid before the Honble Court for further orders.</p>	<p>8.5.2003</p>	<p>Put up again 12.5.2003 for further orders.</p> <p> Member</p> <p> Vice-Chairman</p>

mb

Bansal
31/3/03
Section Officer

Notice prepared and sent to the respondent No 1 by Regd. A/D. J.

DN No 695 dtd 16/4/03

No. reply has been
bided.

24
7.5.03

revelation filed on
behalf of the respondent
NO. 1.

MS.
13/5/03

12.5.2003

Heard Mr. S. Sarma, learned
counsel for the applicant and also
Mrs. R.S. Choudhury, learned counsel
for the respondents who placed a
photo copy of the order passed by
the Hon'ble Gauhati High Court in
W.P.(C) No. 2913/2003. Considering
the facts situation and the order
passed by the Hon'ble Gauhati High
Court in W.P.(C) No. 2913/2003, the
C.P. stands dropped.

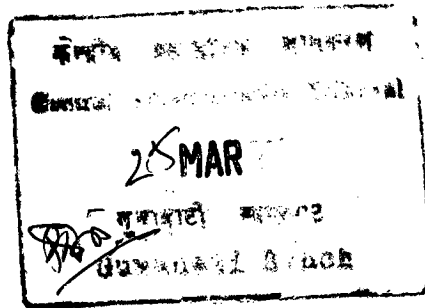
20.5.2003

Copy of the order
has been sent to the
D/Sec. for issuing the
same to the L/Advocates
for the parties.

MB

mb

Vice-Chairman



- 1 -

Filed by
the Petitioner through
Alsha Das.
Advocate
24/3/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH:

C.P. 16 NO. 2003.
In OA No. 175/2001

IN THE MATTER OF

An application under Section 17 of
the Administrative Tribunal's Act,
1985 read with Rule 24 of the CAT
(procedure) Rules, 1987.

- AND -
IN THE MATTER OF

Judgment and order dated 30.9.2002
passed in OA No. 175/2001.

- AND -
IN THE MATTER OF

Willful and deliberate violation
of the above order.

- AND -
IN THE MATTER OF

1. Shri Babul Ch. Deka
2. Sri Tilok Deka
3. Karuna Kalita.
4. Karsali Marak.
5. Madan Baishya.
6. Fomingstone Momin.
7. Hemaranjan Shylla
8. Karna Bahadur Biswakarma
9. Khim Bahadur Thapa
10. Sarada Devi
11. Smt. Devrupa
12. Nanda Kurmy.
13. Elizabeth War

14. Merry Nowlong
15. Leena Nowlong.
16. Thrina Kharboh
17. Harmohan Das
18. Rejina Thenkiew
19. Sonali Sangma
20. Krostina Rupseng
21. Sabitry Devi
22. Bila Kharboh.
23. Aitilesh Kharkhonger
24. Lohit Das
25. Sarala Kalita
26. Prem Bahadur Certtry
27. Barun Das
28. Gakul Kalita
29. Anil Patgiri
30. Dipa Baruah
31. Laxman Chetry
32. Dil Bahadur Darjee
33. Bishnu Kalita
34. Arun Baruah
35. Laxman Thapa
36. Birit Fawa
37. Altaf Choudhury
38. Marie Marak
39. Narayan Sharma
40. Niksin Marak
41. Moringstore Sangma
42. Dam Marry Rabina
43. Babul Ch. Sharma

44. S. Ahmed
45. Krishna Bahadur Chetry
46. Harka Bahadur Gurrung
47. Ajit Das
48. Thanewar Kalita
49. Kharbesar Kurmi
50. Ratneswar Koch
51. Jayanti Brahma
52. Shriram Brahma
53. Prafully Borah
54. Hemen Das
55. Ranapal Marak
56. Ophing Sangma
57. Gurudev Kalita
58. Padum Bahadur Chetry
59. Bishnu Sharma
60. Chandra Bahadur Chetry
61. Mon Bonia
62. Malita Lakhit
63. Aidarlin Nongram
64. Jotimora Lakhit
65. Kamleswar Kalita
66. Mandiram Marak
67. Jumrit Sangma
68. Sanchebani Sangma,

All are casual labour working
under the Director, ICAR, Research
Complex, Borapani, Meghalaya.

... Petitioners

-vs-

Shri K.M. Buzarbaruah, the Director,
ICAR, Research Complex, For NEH
Region, Borapani, Meghalaya.

... Respondents/Contemners

The humble petition on behalf of the petitioners
abovenamed;

MOST RESPECTFULLY SHEWETH.

1. That the petitioners abovenamed as Applicants in OA No. 175/2000 had approached the Hon'ble Tribunal assailing the order dated 24.6.99 passed by the Respondents refusing to provide them the benefits conferred on the persons who were similarly situated. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA directing the Respondents to reinstate the Applicants and to provide them the benefits arising from the reinstatement forthwith.

A copy of the judgment and order dated 30.9.2002 passed in OA No. 175/2001 is annexed herewith and marked as Annexure-1.

2. That on the day of hearing the counsel for the Respondents was present and the judgment was passed in his presence. After the receipt of the copy of the

judgment, Petitioners have also communicated the order through representation and the registry of the Hon'ble Tribunal also sent a copy of the same to the Respondents. Having full knowledge about the judgment dated 30.9.2002 passed in OA No. 175/2002 passed by this Hon'ble Tribunal the Respondents, till date nothing has been done for compliance of the same.

3. That the contemner abovenamed evenafter receipt of the aforementioned judgment and order dated 30.9.2002 (Annexure-1) are not implemented the same and nothing has been communicated to the Petitioners. The contemner knowing fully well about the judgment has not yet implemented the same and such he is liable to be punished severely for his such willful and deliberate violation of the Hon'ble Tribunal's judgment invoking Section 17 of the Administrative Tribunal Act, 1985.

4. That the Petitioners beg to state that the judgment and order dated 30.9.2002 is very clear and the contemner should not have delayed the matter in implementing the same. The contemner even has not apprised the Hon'ble Tribunal regarding the implementation part and as such he is solely liable to be punished for his willful and deliberate violation of the judgment and order dated 30.9.2002 passed in OA No. 175/2001 and an appropriate direction need be issued to the said contemner to implement the same invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

5. That this application has been filed bonafide and to

secure the ends of justice.

In the premises aforesaid, it is most respectfully prayed that the Hon'ble Tribunal would be pleased to issue notice to the Respondents to show cause as to why contempt of court proceedings shall not be drawn up against each one of them and also as to why necessary orders be not passed invoking the power under Rule 24 of the CAT (Procedure) Rules, 1987 for effective implementation of the orders of the Hon'ble Courts referred to above and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to pass appropriate order of punishment of the Respondents and further be pleased to pass appropriate orders towards effective implementation of the aforesaid orders of the Hon'ble Courts and/or be pleased to pass such further order/orders as the Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case so as to give complete relief to the Petitioner.

And for this act of kindness the Petitioners, as in duty bound shall ever pray.

AFFIDAVIT

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AFFIDAVIT

I Shri Babul Ch. Deka, resident of Vill- Top, Makha Leikai, Manipur, son of A. Chonjon Singh, aged about ___ years, do hereby solemnly affirm and state as follows :

1. That I am the Petitioner No. 1 of this instant petition and conversant with the facts and circumstances of the case. I am also authorised by the other Petitioners to sewar this affidavit on their behalf and as such competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs _____ are true to my knowledge ; those made in paragraphs _____ are matters of records which I verily believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 3rd day of September, 2001.

Identified by me :

Usha Das.

✓ *শ্রী বাবুল চন্ডিকা*

Deponent

Advocate

Solemnly affirmed and declared before me by the Deponent who is identified by Miss Usha Das, Advocate, on this *19th* day of *March*, 2003.

Siddhanta Sanyal

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 175 of 2001.

Date of Order : This the 30th Day of September, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

1. Babul Ch. Deka
2. Tilok Deka.
3. Karuna Kalita.
4. Karsali Marak.
5. Madan Baishya.
6. Fomingstone Momin.
7. Hamaranjan Shylla.
8. Karna Bahadur Biswakarma.
9. Khim Bahadur Thapa.
10. Sarada Devi.
11. Smt. Devrupa.
12. Nanda Kurmy.
13. Elizabeth War.
14. Merry Nowlong.
15. Leena Nowlong.
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17. Harmohan Das.
18. Rejina Thenkiew.
19. Sonali Sangma.
20. Krostina Rupseng.
21. Sabitry Devi.
22. Bila Kharboh.
23. Aitilesh Kharkhonger.
24. Lohit Das.
25. Sarala Kalita.
26. Prem Bahadur Certtry.
27. Barun Das.
28. Gakul Kalita.
29. Anil Patgiri.
30. Dipa Baruah.
31. Laxman Chetry.
32. Dil Bahadur Darjee.
33. Bishnu Kalita.
34. Arun Baruah.
35. Laxman Thapa.
36. Birit Fawa.
37. Altaf Choudhury.
38. Marie Marak.
39. Narayan Sharma.
40. Niksin Marak.
41. Moringstone Sangma.
42. Dam Marry Rabina.
43. Babul Ch. Sharma.
44. S. Ahmed.



Accepted
Advocate

45. Krishna Bahadur Chetry.
45. Harka Bahadur Gurrung.
47. Ajit Das.
48. Thaneswar Kalita.
49. Kharbesar Kurmi.
50. Ratneswar Koch.
51. Jayanti Brahma.
52. Shriram Brahma.
53. Prafully Borah.
54. Hemen Das.
55. Ranapal Marak.
56. Ophing Sangma.
57. Gurudev Kalita.
58. Padum Bahadur Chetry.
59. Bishnu Sharma.
60. Chandra Bahadur Chetry.
61. Mon Bonia.
62. Malita Lakhit.
63. Aidarlin Nongram.
64. Jotimora Lakhit.
65. Kamleswar Kalita.
66. Mandiram Marak.
67. Jumrit Sangma.
68. Sachebani Sangma.

. . . . Applicants.

Sr. Advocate Mr. B.K. Sharma, S. Sarma & Mrs. U. Das.

- Versus -

1. Union of India
Represented by the Secretary
to the Ministry of Agriculture
Krishi Bhawan, New Delhi.
2. The Director General
Indian Council of Agricultural Resource (ICAR)
Krishi Bhawan, New Delhi.
3. The Director, ICAR
ICAR Research Complex for NEH Region
Umroi Road, Borapani
Meghalaya-3.

. . . Respondents.

By Sr. Advocate Mr. K.N. Choudhury & Indraneel Chowdhury.

O R D E R

CHOWDHURY J.(V.C.) :

In this application under section 19 of the Administrative Tribunals Act, 1985 the applicants have assailed the order passed by the respondents vide order dated 24.6.1999 refusing to provide them the benefits

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Attested
Advocate

conferred on the persons who were similarly situated.

1. The applicants are sixty eight in number, who are before the Tribunal for the third time praying for same and similar relief. Considering the nature of the relief and the facts and circumstances, the applicants are allowed to espouse their cause by single application. The applicants were engaged as Casual Workers by the respondents, some of them were engaged in 1976, some of them in 1981, 1982, 1983, 1984 and 1985 onwards. The dates of engagement are reflected in Annexure-A of the application. The Casual Workers through their Workers Union demanded for regularisation their services, but the same evoked no result and the applicants like others were terminated. Some of them preferred Writ Petition No.712/86 before the High Court, which was later on transferred to this Tribunal. The said case was numbered and registered as G.C.No.112/87. This Tribunal by its judgment* and order dated 12.1.1988 set aside and quashed the notice and directed the respondents to allow the applicants to resume their duties with immediate effect and they would be deemed to be in continuous service with all the service benefits from the date they were not allowed to join their duties. The question of regularisation, though left to the authority, the Tribunal expressed its view in favour of regularisation in accordance with law.

2. The respondents authority preferred SLP before the Hon'ble Supreme Court. There was

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Attested
by
Advocate

an interim order. Subsequently by the judgment and order dated 20.2.1990 the Hon'ble Supreme Court dismissed the SLP. The applicants thereafter preferred an O.A. bearing No.230 of 1993 before this Tribunal alongwith Smt. Maya Thappa & Others. The said O.A. was disposed by the Tribunal on 1.9.1994 directing the General Secretary of the Union to file representation before the authority ventilating the grievances of the members of the Union. Through the Union the representation was filed on 27.8.1994. The reminders were also issued. These applicants also thereafter preferred O.A.174/1997 praying for a direction of the respondents to reinstate them in service in terms of the judgment in G.C. No.112/87. The Tribunal upon hearing the parties disposed of the application with a direction on the respondents to dispose of the Annexure-5 representation dated 27.8.1994 in terms of the order dated 12.1.1998 passed in G.C.No.112/87 within the prescribed period. As per Annexure-5 mentioned the said O.A. the General Secretary of the ICAR Union prayed for redressal of their grievance, wherein they sought for reinstatement with all consequential benefits. By order dated 1.5.1999 the authority informed the General Secretary of the Union that the representation was never submitted in the office, therefore the question of disposal of the same did not arise. By the said order it was also informed that the directives of the CAT/GHY

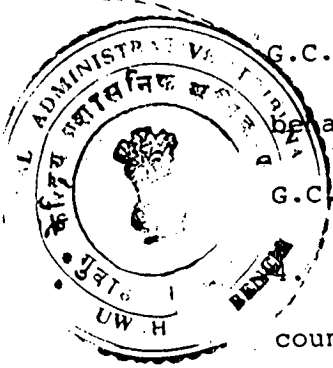
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Amended
12/01/99
Advocate

Bench judgment was fully implemented and no injustice had been done to the working temporary status mazdoors of ICAR complex, Meghalaya and the representation alleged to have been filed on 10.2.1998 was accordingly disposed off. By the said order the applicants were also informed that the applicants in O.A.174 of 97 were not on roll as on 1.9.1993 and therefore they did not fulfil the requirement mentioned in the Scheme for granting temporary status. Hence this application assailing the legitimacy of the order. The applicants mainly contended that they are similarly situated with those persons mentioned in G.C.No.112/87. All the persons mentioned in G.C.112/87 and also the similarly situated persons were already reinstated and thereafter they were regularised.

3. The respondents submitted their written statement and contested the claim of the applicants. In the written statement, the respondents stated that the judgment and order dated 21.4.1998 passed in O.A.174/97 was fully implemented by the respondents and communicated the same by letter dated 24.6.1999. It is inter alia stated that the applicants of O.A.174/97 were not on roll as on 1.9.1993 and since they did not fulfil the terms and conditions of the temporary status mazdoor scheme, the question of granting temporary status to the applicants did not arise. The respondents also stated that some of the labourers (220 in numbers) had filed a Writ Petition in Gauhati High Court bearing

No.712/86 and the said Civil Rule was subsequently transferred to this Tribunal and the same was numbered as G.C.No.112/87. The Tribunal vide judgment and order dated 12.1.1998 directed the respondents to allow the petitioners of the G.C.No.112/87 to resume their duties and with a further direction to treat them as on duty for the said break period. Accordingly, respondents allowed the petitioners of G.C.No.112/87 to resume their duties and complied the order of the Tribunal dated 12.1.1998. The respondents also stated the applicants of this O.A. were not the party to G.C.No.112/87 as such they cannot claim any benefit on behalf of the judgment dated 12.1.1998 passed in G.C.No.112/87.



We have heard Mr.B.K.Sharma, learned Sr. counsel assisted by Mr.S.Sarma, learned counsel on behalf of the applicants and also Mr.Indraneel Chowdhury, learned counsel appearing on behalf of the respondents at length. From the materials on records it is apparently clear that these sixty eight applicants are similarly situated with those applicants mentioned in G.C.No.112/87. These applicants also are fighting for their rights before the Tribunal and preferred O.A. Nos.238/93 and 174/97. The Tribunal by its orders directed the respondents to consider their cases. One of the ground assigned by the respondents are that these applicants are not party before the Tribunal in G.C.NO.112/87. Undoubtedly, the applicants were not

Contd./7

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Advocate

party in G.C.No.112/87, but then when the very action of the respondents was set aside and quashed on the basis of which the persons mentioned in G.C.No.112/87 were reinstated, there is no justification for leaving out these applicants also for the similar benefits. These applicants are similarly situated and the judgment delivered by this Tribunal in G.C.112/87 was not a judgment for one person, but it is a judgment in rem. Hence we do not find any justification for not giving the benefit to these applicants, which was already given to other persons, similarly situated. In this connection, it would be appropriate to refer to the following decisions :

"(1990) 4 SCC 13
(1996) 7 SCC 381
(1997) 6 SCC 721

The other reasons indicated by the respondents that these applicants were not on roll as on 1.9.1993 cannot be a valid ground for not considering their case. The applicants could not have been on roll on 1.9.1993 on the face of the purported termination order. Similarly situated persons were reinstated sequal to the order of the Tribunal. The stand point of the respondents for reinstating the applicants inspite of the decisions of the Tribunal in similar situations are not legally sustainable. Persons similarly situated obtained judgment in their favour, without any valid ground it was inappropriate to deny the same benefit to these persons. The decision rendered in the earlier case is

'in rem Judicatum'."Interest republicae ut sit finis litium" - In the interest of republic litigation must have a limit. The reasonings assigned by the respondents in not considering the claim of the applicants cannot be sustainable and accordingly the order dated 24.6.1999 is set aside and the respondents are directed to provide the applicants similar benefits provided to the applicants in G.C.No.112/87. The respondents are accordingly directed to reinstate the applicants and provide them the benefits arising from the reinstatement. We, however, make it clear that the applicants shall not be paid the backwage from the reinstatement. The applicants will be entitled for the entire benefits for the purpose of seniority, promotion and retiral benefits with the continuity of service. The respondents are directed to fix the pay of the applicants notionally.

The application is thus allowed to the extent indicated above. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

TRUE COPY

Section of
Central Administration
General Branch

28/10/2002

Amr
WOM
Advocate